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CONFLICT OF LAWS. By John B. Tiernan. Chicago: Callaghan & Co. 1921. pp. vii, 122.

It is unfair to expect much from a text essaying to cover so large and complex a field in so small a compass. Perhaps it may enable the hasty student to pick up enough of the time-worn "lingo" to pass an old-fashioned bar examination, but the book makes no contribution to the serious study of the subject.

After the manner of Dicey the author has formulated certain concise rules, which are amplified in the text, with some reference to authorities. Whereas Dicey stated some two hundred rules and sub-rules, the author has to his credit the feat of compressing the subject into thirty-two rules and six exceptions! In general, these so-called "rules," like the diplomatic acceptance of a formula "in principle," only postpone to a later stage the real difficulties. The fight comes in applying them. Of what great value is the agreement that "a penal action must be brought in the state whose law imposes it," if the courts do not agree on what actions are penal?¹ The chapter on "Penal Actions" does not suggest that there is any actual disagreement in the authorities in applying the rule.

The book comprises twelve chapters, entitled, respectively, Comity, Torts, Death Actions, Contracts, Remedies, Interest and Usury, Sales and Chattel Mortgages, Marriage, Legitimacy and Adoption, Wills, Crimes, Penal Actions. Many important topics, such as domicil, foreign judgments, administration of estates, are not discussed. In the chapter on "Comity" we are told that a state may, "as a mere act of courtesy," "waive its own sovereignty" and give effect to rights created under the laws of another state. The superficial chapter on "Contracts" leaves an impression that the cases are all agreed, instead of being in irreconcilable discord.² No reference is made in the chapter on marriage to the controversial topic of jurisdiction for divorce. "Wills" is disposed of in six pages. For the rule that the devolution of personality is governed by the law of the domicil no better explanation is given than the fiction that personal property, regardless of its actual situs, is deemed to be located where the owner is domiciled. The difficult topic of powers of appointment is not mentioned. It is stated in a "rule" that "the validity, construction and revocation of a will are regulated by law of testator's domicile if it involves personality; or the law of the location if it involves realty." Testator's domicil, when? Is the validity determined by the law of the domicil at time of executing the will, or at time of death? Is the revocation determined by the law of testator's domicil at the time of the act of revocation, or at the time of death? The text furnishes no answer. Nor will the cases all agree that the construction of a will of realty must be determined by the law of the situs.³

Other instances abound in which the book is inadequate or misleading, but these must be left to the curious reader to discover. The author concludes that the "Conflict of Laws is based simply on certain fundamentals, that by careful selection, manifests a symmetry and a consistency and a unity that has no parallel in any other subject of the Law." One may suspect that this "careful selection" consists in ignoring all the cases that do not fit in with the author's simple scheme of things. In important particulars the subject is in a fluid state, and the author's thirty-two rules and six exceptions will not assist in its ultimate crystallization.

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¹ See, for instance, the conflict as to the statutory liability of corporation directors, 26 HARV. L. REV. 172; and the conflict as to death statutes, *Loucks v. Standard Oil Company*, 224 N. Y. 99.

² See Lorenzen, "Validity and Effects of Contracts in the Conflict of Laws," 30 YALE L. J. 565, 655, 31 *ib.* 53; Beale, "What Law Governs the Validity of a Contract?" 23 HARV. L. REV. 79.

³ See *Staigg v. Atkinson*, 144 Mass. 564; *Keith v. Eaton*, 58 Kan. 732.